

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Antonio Barber, #10839017,)	C/A No. 9:05-1666-CMC-GCK
)	
Petitioner,)	
)	
-versus-)	OPINION and ORDER
)	
M. Pettiford, Warden, FCI–Bennettsville,)	
)	
Respondent.)	
)	

Petitioner is a *pro se* inmate currently confined at FCI–Bennettsville, South Carolina. Petitioner seeks relief in this court pursuant to 28 U.S.C. § 2241.

In accordance with the court’s order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(c) and (e), DSC, this matter was referred to United States Magistrate Judge George C. Kosko for pre-trial proceedings and a Report and Recommendation. On August 16, 2005, the Magistrate Judge issued a Report recommending dismissal of Petitioner’s claim without prejudice and without requiring Respondent to file a return. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner has filed objections to the Report and Recommendation and a motion for appointment of counsel.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the

recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Petitioner's motion for appointment of counsel is **denied** and this petition is dismissed without prejudice and without requiring Respondent to file a return.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON McGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
August 30, 2005

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